

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Shantrell Tolbert,,) C/A No. 4:05-1105-CMC-TER
Petitioner,)
v.) OPINION AND ORDER
Matthew Hamdullah, Warden,)
Respondent.)

)

This matter is before the court pursuant to an action filed under 28 U.S.C. § 2241 on April 4, 2005. The *pro se* Petitioner is presently a federal inmate at the Federal Correctional Institution in Estill, South Carolina, where he is serving a two hundred eleven (211) months' term of incarceration after his conviction in the Eastern District of Tennessee for conspiracy to commit carjacking, armed carjacking, and using and carrying a firearm during a crime of violence. Respondent filed a motion to dismiss or in the alternative for summary judgment on August 5, 2005. After being advised by the court of the summary judgment procedure and the possible consequences if he failed to respond adequately, Petitioner filed a response to Respondent's motion for summary judgment on September 12, 2005.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or

recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b).

Based on his review of the record, the Magistrate Judge has recommended that the Respondents' motion for summary judgment be granted and the petition be dismissed. The Magistrate Judge advised Petitioner of his right to file objections to the Report and the consequences if he failed to do so. Petitioner filed his objections on December 16, 2005.

The court has carefully reviewed Petitioner's objections and finds them to be without merit. After reviewing the Petition, the motion, the Report and Recommendation of the Magistrate Judge and Petitioner's objections, the court agrees with the recommendation of the Magistrate Judge. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

Therefore, it is hereby **ORDERED** that Respondent's motion for summary judgment is **GRANTED**, and it is **FURTHER ORDERED** that the petition is **DISMISSED** with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
December 22, 2005

C:\temp\notesE1EF34\05-1105 Tolbert v. Hamdullah - granted mo for sj, objs have no merit.wpd